



March 7, 2024

Governor Gavin Newsom
California State Capitol
Sacramento, CA 95814

Liane Randolph, Chair
Members of the Board
Steven Cliff, Executive Officer
California Air Resources Board
1001 "I" Street
Sacramento, CA 95814

Submitted electronically via
<https://ww2.arb.ca.gov/public-comments/lcfs-fuel-pathways-public-comments>

**Re: Low Carbon Fuel Standard Tier 2 Application No. B0440,
Phillips 66 Company (4528); California**

To Responsible Officials:

Our organization Biofuelwatch appreciates the opportunity to submit this brief letter to the California Air Resources Board (CARB) as comment on the Low Carbon Fuel Standard Tier 2 Application No. B0440, Phillips 66 Company (4528) Application (Application)¹. Biofuelwatch² is an international organization that works to increase public understanding and civic engagement on the land-use implications of climate policy. We have a particular focus on the environmental harms and social inequities of large-scale industrial bioenergy projects, and we work extensively on addressing the negative ecological and social outcomes of policy and actions that are justified as being beneficial to the global climate, yet carry with them risks and threats to public health and safety, economic stability and natural resources. This is a brief letter, highlighting our concerns about the characterization of 'renewable diesel' as a low carbon fuel and our opposition to granting incentive credits for the utilization of imported Used Cooking Oil (UCO) feedstocks from Asia for its production.

Biofuelwatch opposes awarding Low Carbon Fuel Standard (LCFS) credits for the application submitted.

¹ https://ww2.arb.ca.gov/sites/default/files/classic/fuels/lcfs/fuelpathways/comments/tier2/b0440_cover.pdf

² <http://www.biofuelwatch.org.uk/>

Some of our concerns include the following:

- Displaced demand for fats and oils indirectly driving palm oil expansion: When fats and waste vegetable oils are exported to the U.S. for manufacturers such as Phillips 66 Company, those feedstock commodity supply objectives frequently compete with pre-existing uses (including current and potential) for those feedstock materials that may already exist in their countries of origin. Used cooking oil (UCO) feedstocks are already used for biodiesel production in many countries, and animal fats are used by the food industry, for animal feed, and for oleochemicals, as well as for existing biodiesel production³. Manufacturing industries that currently use those feedstocks in those countries will then, when no longer able to access the feedstocks they are currently using, be forced to seek alternative supplies, such as palm oil, to meet their domestic needs. This increased demand from market displacement is a known driver of the expansion of the palm oil sector. The negative impacts of industrial palm oil plantation expansion on environment, climate, biodiversity and human rights have been well documented.
- There are already several examples of fraud in Malaysia and Singapore in which virgin palm oil was sold in global markets as UCO.
- No adequate assessment of the market and social consequences of widespread exportation of fats and oils from countries of origin to refineries in the US has been undertaken.
- Driving up price of cooking oil and food: With fats and oils in extraordinarily high demand for planned expansion of renewable diesel and related fuels, the price points for these products for use in fuel production will outcompete other uses, including for food. Demand for biofuel production is contributing to shortages and price hikes⁴.
- Used Cooking Oil (UCO) in particular has been subject to rampant fraud and theft: The European Union (EU) imports 80% of UCO used in biofuels. As shown in a recent report by the NGO Transport Environment⁵: *“An increasing number of cases uncovered by investigations and denounced by the EU biofuels industry suggest that a large share of UCO imports would be fraudulent and potentially repurposed virgin palm oil. This led several member states such as Germany and Ireland to launch their own official investigation. In addition, in August 2023 the European Commission promised to investigate suspicions of fraudulent Indonesian biodiesel potentially transiting through China and the United Kingdom to circumvent taxes.”*
- In the EU, Members of the European Parliament recently demanded the EU Commission make public information about the sources of proclaimed UCO. According to a Reuters news report, the US is currently importing some 384,000 metric tons of UCO from China

³ The market driven linkages and elasticities within markets for fats and oils are detailed in numerous reports including the following: https://theicct.org/wp-content/uploads/2021/06/Cross-price-elasticities-for-oils-fats-US-EU_ICCT_consultant-report_06032017.pdf

⁴ <https://www.bloomberg.com/news/articles/2023-03-22/shortage-of-cooking-oil-looms-as-biofuels-gain-global-appeal>

⁵ https://www.transportenvironment.org/wp-content/uploads/2023/12/202312_TE_biofuels_update_report_clean-1-1.pdf

alone⁶. US imports of UCO from other jurisdictions in Asia clearly carry the same risks of fraud – i.e. of fraudulent ‘laundering’ of virgin palm oil – as those by European countries. Meanwhile, the European Waste-based Advanced Biofuels Association citing a flood of “dubious” imports from China, stated: *“The promotion to waste-based and advanced biodiesel has to be accompanied by effective policing and worldwide sound auditing and verification practices ... thus avoiding dubious or fraudulent activity.”* Phillips 66 Company is obtaining its supplies via unspecified sources, reducing the avenues for accountability. What oversight of the supply chain exists?

- Not only fraud but also theft of UCO is commonplace⁷. Can CARB confidently claim UCO supplied to Phillips 66 Company is not stolen?

Specific to the quality of the Application our organization was particularly disturbed by the inadequate and deficient Lifecycle Analysis (LCA) Report for the UCO feedstock identified for the pathway – almost all of the relevant information is unavailable due to the characterization of the information as ‘confidential business information’ (CBI). Thus, it is impossible to assess the quality of the LCA Report. It borders on the absurd that so little information is available regarding the specifics of the pathway application. Why bother with public participation if the public does not have access to the relevant information to assess the Application?

Fundamentally, we do not consider importation of tallow, UCO or other fats and oils from around the globe (Oceania, Asia, Latin America) to be a viable approach to sustainable liquid fuel production. The feedstocks that are being imported to Phillips 66 Company could be put to use in their countries of origin. Doing so would avoid the long-distance transport and emissions from that transport.

For these reasons CARB must refrain from approving the Application at this time.

Thank you for your attention to these comments.

Sincerely,



Gary Graham Hughes
Americas Program Coordinator
Biofuelwatch
garyhughes.bfw@gmail.com
+1-707-223-5434

⁶ <https://www.reuters.com/markets/commodities/bidens-ira-drives-surge-us-imports-chinese-used-cooking-oil-2023-09-22/1203543162>

⁷ See for example: <https://www.justice.gov/usao-wdny/pr/six-men-arrested-charged-conspiracy-steal-and-re-sell-restaurant-cooking-oil>